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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,319	07/14/2003	Timothy Fleming	37515/277980	7300
23370	7590	04/13/2006	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			BASINGER, SHERMAN D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/619,319

Applicant(s)

FLEMING, TIMOTHY

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-12 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-12 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/19/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant on September 9, 2005 and under 37 C.F.R. 1.103(a) requested a three month suspension. This request was granted on September 22, 2005. Since this period has ended, prosecution is continued.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 9, 2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hyne.

Hyne discloses a boat comprising:

a. a deck 19 including a receptacle 24, and

b. an accessory (11, 12, 13, 14, 15) firmly connected to the deck but removable therefrom, the accessory being fitted into the receptacle in use and including a quick-release fastener 28 received by the receptacle in use.

Hyne also discloses a boat further comprising at least one buoyancy tube shown in figure 1.

Hyne also discloses a boat further comprising a transom to which the rudder is attached and to which an outboard motor may be mounted. The mast support including tube 12, support member 13 and struts 14 and 15 is considered to be a console.

Hyde also discloses a boat means (stringers 11) for connecting the console to any outboard motor mounted to the transom.

An outboard motor mounted to the transom will be connected to the console through the inflatable tube, the floor 19 and the stringers 11.

The plate incorporated into the deck is plate 24. Plate 24 forms the receptacle and therefor the receptacle is included in the plate.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyne in view of Harding.

Hyne discloses that the deck is of sections, but does not disclose that the deck is removable and that the sections are foldable. Harding discloses a deck of removable and foldable sections-see column 1, lines 23-25 and column 4, lines 61-end.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the sections of the deck of Hyne to be foldable similar to how the deck sections of Harding are foldable and to be removable similar to how the deck sections of Harding are removable. Motivation to do so can be found in the last 8 lines of column 4 of Harding.

7. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hyne in view of Goldsmith.

Hyne does not disclose the accessory as being a seat structure with a seat and a container fuel tank.

Goldsmith discloses an accessory for an inflatable boat which is a seat that is a fuel tank container.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a seat container similar to that of Goldsmith to the dinghy of Hyne using the receptacle and fastener system of Hyne to removably attached the seat container to the dinghy. Motivation to do so is to provide a seat to the dinghy of Hyne which is versatile due to the seat being also useful as a fuel tank.

8. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hyne in view of McCrory et al.

Hyne does not disclose the D ring. McCrory et al discloses D ring 88 connected directly or indirectly to the deck for connecting an accessory thereto, a plate 94 to which the D ring is attached, a bottom plate 96 positioned underneath the deck 26 and a fastener adhesive for connecting the plate to the bottom plate.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a D ring similar to 88 of McCrory et al to the deck 19 of Hyne using a plate, bottom plate and fastener similar to those of McCrory et al to connect the D ring directly or indirectly to the deck. Motivation to do so is to provide a D ring to the deck of Hyne for tying down cargo in the dinghy.

The D ring provided to Hyne would not project slightly above the deck when not in use; however to have it do so would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains in order to make it accessible and yet, keep it out of the way.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyne in view of Harding.

Hyne does not disclose a method of making an inflatable boat having a length more compact for storage or transport, comprising:  
deflating an inflatable element;

disconnecting at least one accessory from a deck spanning substantially the length of the boat; and removing the deck.

Hyne does disclose his deck 19 spanning substantially the length of the boat and does disclose at least one accessory removably attached to the deck. Harding discloses removing his deck and deflating his inflatable elements. In view of the teaching of Harding (see column 4, lines 61-end), it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to deflate the inflatable element of Hyne, disconnect the accessory from the deck and remove the deck. Motivation to do so is to store the boat, accessory and deck for transport.

### ***Response to Arguments***

10. Applicant's arguments filed September 9, 2005 have been fully considered but they are not persuasive.

11. Applicant argues: According to the Examiner, c-shaped clamp spring 24 of the Hyne patent is a "receptacle", stringer 111 is an "accessory" and pin 28 is a "quick-release fastener."

In the context of the claimed invention, Applicant disagrees.

Nevertheless, even assuming (but not conceding) pin 28 of the Hyne patent is a "quick-release fastener" and clamp spring 24 is a "receptacle" as the

Examiner contends, clear is that pin 28 is not received by clamp spring 24. Instead, pin 28 is received by slots in stringers 11-which the Examiner considers to be the accessory of claim 1. Thus, under no circumstance does the Hyne patent disclose or suggest the fastener (i.e. pin 28) being received by the receptacle (i.e. clamp spring 24), contrary to the Examiner's (unsupported) contention.

12. In rebuttal, the end of fastener 28 is received by accessory 11 which is received by receptacle or spring 24. Thus, the end of fastener 28 is received by spring 24. The end of fastener 28 is within the confines of spring 24 so as to be received by it.

13. Applicant argues: Independent claim 12 recites the actions of deflating an inflatable element of an inflatable boat, "disconnecting at least one accessory from a deck spanning substantially the length of the boat," and removing the deck. The Examiner contends that claim 12 would somehow be obvious over, principally, the disclosure of the Hyne patent, even though that patent discloses absolutely none of the actions recited in the claim. See Office Action at p. 5 (where the Examiner acknowledges failure of the Hyne patent to teach actions a., b., and c.). Although the Harding patent arguably discloses deflating inflatable elements and removing decks, neither it nor the Hyne patent addresses disconnecting accessories from decks in the context recited in claim 12.

Indeed, the Examiner apparently concedes this, as nowhere in the Office Action does he identify where this aspect of claim 12 is taught in either cited reference.



Instead, he again simply baldly assumes that one skilled in the art would know to practice all three actions of claim 12. Applicant hence considers this rejection of the Examiner too to lack even prima facie basis and requests that it be withdrawn and that claim 12 be allowed.

14. In rebuttal: All of the steps of claim 12 are taught by either Hyne or Harding.

Harding teaches deflating an inflatable element-see column 4, line 66.

Hyne teaches disconnecting at least one accessory from a deck spanning substantially the length of the boat-see column 5, lines 39-53.

Hyne teaches removing the deck-see column 4, lines 64 and 65.

Applicant appears to be arguing that the order in which the steps are performed is what makes claim 12 patentable. It is the examiner's position that the order in which the steps are performed do not lend patentability to the claim. Whether one having ordinary skill in the art decides to remove the accessory before or after deflation of the boat makes no difference as both ways really have on clear advantages over one another. For these reasons the rejections stand.

### ***Conclusion***

15. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the

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grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. **There are no new grounds of rejection.**

16. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sherman D. Basinger  
Primary Examiner  
Art Unit 3617

4/11/06